

**OPINION  
60-128**

February 2, 1960    (OPINION)

HEALTH AND SAFETY

RE: Restaurants - Inspection

This is in reply to your letter requesting an opinion of this office in regard to whether your department should inspect and score the the eating places at the colleges and institutions of the state.

Your department is statutorily required to inspect hotels, restaurants, lodginghouses, and boarding houses by section 23-0911 of the North Dakota Revised Code of 1943. The word "restaurant" as used in such statute is further defined by section 23-0901 of the N.D.R.C. of 1943 as including "every building or other structure, or any part thereof, and all buildings in connection therewith, kept, used, maintained, advertised, or held out to the public as a place where meals or lunches are served, but where sleeping accommodations are not furnished; . . ."

It would thus appear that the answer to your question would be dependent upon whether such eating places are kept, used, maintained, advertised, or held out to the public or whether same were kept, used, maintained, advertised, or held out to students staff members, or inmates of the college or institution concerned. Generally, it would be our thought that the eating places at the various colleges and institutions of the state are not public in the sense referred to in said section 23-0901 of the N.D.R.C. of 1943, and you would therefore not be required to inspect them. In any instance however where such an eating place is public it is our opinion that it must be inspected. An example of one of the exceptions to the general rule is where the campus cafeteria, on various occasions, e. g., Homecoming, etc., is held out to the general public as a place where meals are available.

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Attorney General